



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

09/747,647

12/22/2000

Aman Gupta

GEMS8081.055

4528

27061

7590

10/11/2006

ZIOLKOWSKI PATENT SOLUTIONS GROUP, SC (GEMS)
14135 NORTH CEDARBURG ROAD
MEQUON, WI 53097

EXAMINER

JASMIN, LYNDIA C

ART UNIT

PAPER NUMBER

3627

DATE MAILED: 10/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/747,647

Applicant(s)

GUPTA ET AL.

Examiner

Lynda Jasmin

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. In view of the Appeal Brief filed on June 02 2006, PROSECUTION IS HEREBY REOPENED. A new ground of rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below:

/Alexander Kalinowski/

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, the recitation "displaying the proactive promise alerts with the order numbers by product category and type of alert" renders the claim indefinite. Is Applicant referring to the to different proactive promise alerts or proactive promise and reactive shipment alert?

Claim Rejections - 35 USC § 101

4. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 15-21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

The system contains data structures (signals) not claimed as embodied in computer-readable media and therefore are descriptive material *per se* and are not statutory because they are not capable of causing function change in a computer.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

Art Unit: 3627

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,809,479 (Martin) in view of U.S. Patent No. 6,032,121 (Dietrich), and further in view of U.S. Patent No. 6,322,502 (Schoenberg).

Martin discloses a method for reporting status of work in progress comprising the steps of: periodically querying a database (14; see Figure 1; see also column 2, lines 48-49) that contains data indicating an order number (inherent), a promise date (see column 3, lines 57-61), a request date (see column 3, lines 27-55, "customer-preferred ship date"), and a shipment date (see column 4, line 2, "customer-expected delivery date"); comparing the promise dates and the request dates (see column 3, line 56 – column 4, line 23). Regarding claim 8, it is noted that Martin notifies a customer when there is a discrepancy between the promise date and the request date (see column 4, lines 3-4).

Martin fails to disclose setting a proactive promise alert if a promise date is later than a request date for a given order and displaying the proactive alerts with the order numbers. If there is a discrepancy between the promise date and request date, Martin merely recognizes the discrepancy and reschedules (see column 3, line 56 – column 4, line 23).

Dietrich teaches the use of method of "proactive" planning (as required by claim 1) in real-time (as required by claim 5) to provide advance warnings (see column 2, lines 58-61; see also column 6, lines 25 – column 7, line 14).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin with the proactive warning (alert) taught by Dietrich, because an early warning system reduces the chance that undesired events will occur.

The combination of Martin and Dietrich disclose all the limitations as set forth above but fail to explicitly disclose data related to product category of products or services, and setting a reactive alert if a shipment date exists and the request date is less than a user-defined number of days prior to a current date.

Schoenberg teaches the entry and monitoring of action items, such as, orders for drugs or other treatments. Schoenberg further teaches the use of reactive alerts (see column 5, lines 39-48).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Martin/Dietrich with reactive alerts as taught by Schoenberg, because the use of reactive alerts are helpful management tools for correcting problems when undesired activities have already occurred.

Response to Arguments

5. 7. Applicant's arguments with respect to claims 1-21 have been considered but are moot in view of the new ground(s) of rejection.

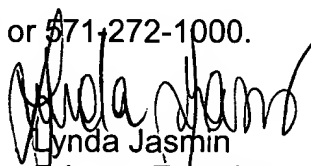
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Lynda Jasmin whose telephone number is (571) 272-

Art Unit: 3627

6782. The examiner can normally be reached on Monday- Friday (9:30-6:00) with Thursday Telework.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alexander Kalinowski can be reached on (571) 272-6771. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.


Lynda Jasmin
Primary Examiner
Art Unit 3627

lj